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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,107	12/06/2001	John Wirth JR.	3584-7	3906

23117 7590 09/21/2005

NIXON & VANDERHYE, PC  
 901 NORTH GLEBE ROAD, 11TH FLOOR  
 ARLINGTON, VA 22203

EXAMINER
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KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/004,107

Applicant(s)

WIRTH, JOHN

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/20/05 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said low resolution file is reduced to a size that is as small as possible, while still providing a display with sufficient detail to allow recognition of at least products imaged on said catalog page" on lines 8-10. Examiner finds that this limitation lacks clarity and precision. Further, Examiner finds that the language of the claims is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement.

Examiner notes that the limitation is relative to the person doing the recognizing. An image size which allows recognition to one user may not be the same as that of another user. Additionally, this limitation is dependent on the technology used. The larger the screen and the

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better the resolution would impact size of the image based on this claim. As Applicant has no control over the technology used by the customer, it is unclear how Applicant can make it "as small as possible." Further, in light of new technologies that may be present in the future, the open ended nature of this limitation (i.e. "as small as possible") renders the claim indefinite.

Examiner notes that Applicant's affidavit is submitted and considered. Further, if Applicant's invention includes a specific reduction ratio, then the claims should be amended to eliminate the indefinite and open ended language and include, only the specific range.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-82 are rejected under 35 U.S.C. 102(b) as being anticipated by

[www.harolds.com](http://www.harolds.com) (hereinafter Harolds).

Harolds teaches browsing a product catalog via a telecommunications network (the Internet). Users of the Harolds website are shown a low resolution scan of a catalog page (see pages 8-10). These pages contain images of products as well as text descriptions. Users can select a particular item from the page by clicking on that item (see for example the "Descending Garden Dress" and "Cartoon Daffodil Skirt" as highlighted by Examiner on page 8).

Upon clicking on a particular product from among the low resolution picture of the catalog page a user transmits a request via a URL for a detailed product presentation. The

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detailed product presentation, transmitted to user, is a high resolution image of the product selected by the use (see pages 11 and 12).

The detailed presentation page contains at least one link for purchasing product as well as an order data block containing ordering information (see page 11 for Examiner's annotations).

Examiner notes that per Applicant's own admission the reduction ratio between the high resolution and low resolution is known to be nominally 20MB to 20KB. Applicant's own Affidavit filed with this amendment is offered as evidence to support this assertion. As this is the standard reduction ratio, Examiner asserts that inherently this must be the ratio used by Harolds.

#### ***Response to Arguments***

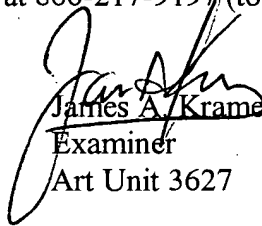
Applicant's arguments with respect to claims 1-82 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James A. Kramer  
Examiner  
Art Unit 3627 9/15/05

jak